



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 30, 1997

Ms. Susan M. Cory
General Counsel
Texas Workers' Compensation
Commission
Southfield Building, MS-4D
4000 South IH-35
Austin, Texas 78704-7491

OR97-2403

Dear Ms. Cory:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 109681.

The Texas Workers' Compensation Commission (the "commission") received a request for "a copy of the 'methodology or formula by which fines are calculated for compliance and practice violations.'" In response to the request, you submitted to this office for review the information which you assert is responsive. You claim that the responsive information is excepted from required public disclosure under sections 552.103, 552.108 and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.111 excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process.¹ Open Records Decision No. 615 (1993) at 5. The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its

¹In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body.

decision-making processes.” *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref’d n.r.e.) (emphasis added). In Open Records Decision No. 615 (1993) at 5, this office held that

to come within the [section 552.111] exception, information must be related to the *policymaking* functions of the governmental body. An agency’s policymaking functions do not encompass routine internal administrative and personnel matters [Emphasis in original.]

The purpose of section 552.111 is to prevent disclosure of information that, if released, will inhibit free discussion among agency personnel as to policy issues. *See id.* at 5-6. This office agrees that the information you have submitted, as being protected by section 552.111, may be withheld under that exception. Therefore, the commission may withhold the requested information from disclosure pursuant to section 552.111 of the Government Code.

As we are able to make a determination under section 552.111, we do not address your additional arguments against disclosure. We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad", written over a horizontal line.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref.: ID# 109681

Enclosures: Submitted documents

cc: Ms. Katie Kidd
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Austin, Texas 78767
(w/o enclosures)